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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

BRENHAM et al. v. SMITH et al.

Nov. 16, 1916.

[90 S. E. 657.]

**1. Infants (§ 41\*)—Sale of Real Estate—Statutes.**—Code 1904, § 3425, providing that if a sale be made under a decree or order of court after six months from the date thereof, and such sale be confirmed, though the decree or order be afterwards reversed or set aside, the title of the purchaser at such sale shall not be affected thereby, but there may be restitution of the proceeds of the sale to those entitled, does not protect the title of one purchasing infants' land at a sale more than six months after the decree authorizing sale, which sale was confirmed, where, because Code 1904, §§ 2615-2626, covering sales of infants' lands, was not substantially complied with, the sale proceedings were fatally defective, since a court of equity in Virginia has no general jurisdiction, as guardian of infants, to sell their real estate when such sale is for their interest, but its powers in this respect are wholly statutory.

[Ed. Note.—For other cases, see Infants, Cent. Dig. § 92; Dec. Dig. § 41.\* 15 Va.-W. Va. Enc. Dig. 487.]

**2. Judicial Sales (§ 53\*)—Statutes—Protecting Title of Purchaser.**—Said Code 1904, § 3425, cannot be successfully invoked by a purchaser who has bought land under a void decree.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. §§ 104-107; Dec. Dig. § 53.\* 15 Va.-W. Va. Enc. Dig. 489.]

**3. Judgment (§ 16\*)—Jurisdiction.**—Jurisdiction to hear and determine the cause must exist before any decree or judgment therein can have any vitality whatever.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 22, 24; Dec. Dig. 16.]

**4. Judgment (§ 16\*)—Jurisdiction—Due Process.**—Although a court has general jurisdiction of the person and the subject-matter, unless the person and the subject-matter are brought before it in a manner authorized by law, the judgment or decree is void.

[Ed. Note.—For other cases, see Judgment, Cent. Dig. §§ 22, 24; Dec. Dig. § 16.\* 8 Va.-W. Va. Enc. Dig. 275.]

**5. Infants (§ 37\*)—Sale of Real Estate—Statutes.**—Code 1904, §§ 2615-2626, as to sale of infants' lands, and Code 1904, § 3425, as to

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

protection of title of a purchaser at judicial sale, are to be liberally construed, but not to such an extent as to conflict with the legislative intent to safeguard the interests of infants.

[Ed. Note.—For other cases, see *Infants*, Cent. Dig. §§ 82, 83, 97; Dec. Dig. § 37.\* 15 Va.-W. Va. Enc. Dig. 489.]

Sims, J., dissenting.

Appeal from Circuit Court, Buchanan County.

Suit between Brenham and others and Smith and others. From a dismissal of complainants' bill of review, they appeal. Reversed and rendered.

*Chase & Daugherty*, of Grundy, for appellants.

*Flannagan & Boyd*, of Grundy, for appellees.

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CHESAPEAKE & O. RY. CO. *v.* MERIWETHER et al.

Nov. 16, 1916. Rehearing Denied Jan. 16, 1917.

[91 S. E. 92.]

**1. Waters and Water Courses (§ 54\*)—Freshets—Obstruction of Flow—Liability.**—A railroad which, to protect its line, constructs a high embankment, several feet from the shore line at low-water mark, and narrowed the channel of a stream, is not liable therefor to a riparian owner whose land is damaged by the flood of an unusual and extraordinary freshet.

[Ed. Note.—For other cases, see *Waters and Water Courses*, Cent. Dig. § 209; Dec. Dig. § 54.\* 13 Va.-W. Va. Enc. Dig. 681.]

**2. Waters and Water Courses (§ 54\*)—Freshets—Obstruction of Flow—Liability.**—A railroad is within its rights on changing the location of its track from one part of its right of way to another to escape the danger incident to a "14 per cent. curve," and in constructing its embankment sufficiently high to protect its roadbed and other property from injury by accidental and extraordinary floods.

[Ed. Note.—For other cases, see *Waters and Water Courses*, Cent. Dig. § 209; Dec. Dig. § 54.\* 13 Va.-W. Va. Enc. Dig. 681.]

Error to Circuit Court, Amherst County.

Action by one Meriwether and others against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Reversed and remanded.

*Harrison & Long*, of Lynchburg, for plaintiff in error.

*Aubrey Strode*, of Amherst, and *Wm. Beasley*, of Lynchburg, for defendants in error.

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.